



## **Phase 1 Preliminary Assessment**

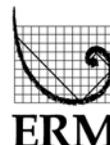
### **Land Use**

## **Seneca Compressed Air Energy Storage Project**

### **New York State Electric and Gas**

**Town of Reading  
Schuyler County, New York**

**Environmental Resources Management  
399 Boylston Street  
Boston, MA 02116**



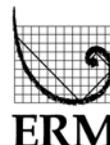
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## 1.0 LAND USE

The purpose of this report is to identify existing land uses at and in proximity to the proposed Seneca Compressed Air Energy Storage (CAES) Project (Project) and to provide a preliminary assessment of the compatibility of such development at the proposed location. The Project is proposed within a primarily rural area in the Town of Reading in Schuyler County, New York. The project components include the CAES plant site (Facility); underground water supply, wastewater discharge and natural gas pipelines; water supply pump house at the western shore of Seneca Lake; and aboveground power lines and substation, which results in a combined Project site that extends over one mile in length from east to west. A Land Cover map containing data from the U.S. Department of Agriculture - National Agricultural Statistics Service is provided as Figure 1 and depicts land cover and the approximate Project location (USDA, 2010).

### 1.1 EXISTING CONDITIONS

The dominant land cover in Schuyler County is forest, which covers approximately 142,000 acres, while agriculture, open water, and development cover approximately 64,000 acres, 8,800 acres, and 3,000 acres, respectively (Schuyler County Planning Commission, 2004). Within the 1-mile radius and 2-mile radius of the Project location, the land cover datalayer was reduced to obtain approximate area and type of land usage within these two buffer zones. The summarized information is provided below in Table 1 using broad categories to define the land uses.

**Table 1. Land Use Estimates Based on Land Cover Types**

Land Cover / Use	1 mile radius (acres)	% of 1 mile radius	2 mile radius (acres)	% of 2 mile radius
Developed/High Intensity	2.7	0.1%	2.7	0.0%
Developed/Medium Intensity	9.5	0.2%	16.2	0.1%
Developed/Low Intensity	43.5	1.0%	104.5	0.8%
Developed/Open Space	200.3	4.6%	644.6	5.1%
Open Water	1,022.8	23.5%	2,800.7	22.3%
Agriculture	1,065.9	24.5%	3,267.0	26.1%
Forest	2,012.4	46.2%	5,696.2	45.5%
TOTAL	4,356.9	100.0%	12,531.9	100.0%



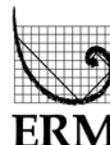
As Table 1 conveys, the land use/cover in these two close-in areas is similar to the land use/cover for Schuyler County as a whole and is primarily rural with forest, agriculture, and open water combining to cover approximately 94 percent of both the one- and two-mile radii around the Project. Within the two-mile radius, the developed/open space land cover category appears to include primarily roadways, a golf course, and a few other small and discrete areas that intersect with agricultural fields and even one small residential neighborhood to total approximately 4.6 percent of the area, while developed areas total approximately just over one percent of the land area. It should be noted that this land cover data are designed to be used for planning-level purposes only.

Seneca Lake is within the one- and two-mile radii of the Project. Primary land use in and around the lake is a combination of residential and recreational uses, with additional commercial operations related to the presence of the Lake. Also within the one-mile radius is at least one cemetery, the Town of Reading Town Hall, and low-density residential areas. Industrial land uses in the Town of Reading include natural gas storage and transmission, a salt mining and evaporation plant, and a metal fabrication/machining company (Town of Reading, 2008).

The Project boundary crosses primarily areas of open former agricultural land and forest, with smaller areas of transportation land uses, including public roadways and an active railroad right-of-way. Proximate to the proposed Facility, the land uses include:

- *To the North:* a truck repair center, a solid waste transfer station, State Route 14A, agricultural crop fields (vineyard), and wooded vacant lands.
- *To the South:* wooded land, with a cemetery approximately 0.7 miles to the southeast.
- *To the East:* wooded land, State Route 14, and further to the east are salt mining facilities and Seneca Lake.
- *To the West:* Open agricultural land, an active railroad corridor, wooded lands, and further to the west residential property, County Route 28, and an active electric utility right-of-way.

In the vicinity of the overhead power line route west of the Facility, a series of marked trails were noted by ERM during a preliminary site reconnaissance within the wooded area between the railroad corridor and



County Route 28. No local, state, or federal public recreational trails are known to exist in this area; therefore, it is expected that the trails are for private use on privately owned land.

## **1.2 TOWN SERVICES**

According to the Superintendent of Utilities at the Department of Public Works (DPW) in Watkins Glen, New York, all water and sewer for the Town of Reading is managed by Watkins Glen (ERM, 2011a). However, this water and sewer coverage serves only a very small portion of the southernmost area of Reading that abuts the northern border of Watkins Glen on the western side of Seneca Lake. Specifically, Watkins Glen manages municipal water and sewer up to the point that Reading Road meets State Route 14. Additional sewerage is provided north of this boundary only to the U.S. Salt Company facilities, which are on the western shore of Seneca Lake at approximately the same latitude as Lovers Lane (Figure 2). Therefore, there is no water or sewer service available at the Project site. Properties in the Town of Reading operate on septic systems and well water.

There are two fire departments in the vicinity of the Project: 1) the Dundee Fire Department, and 2) the Watkins Glen Fire Department (ERM, 2011b). The Project site is within the service area of the Watkins Glen Fire Department given that this department covers properties north of the Village of Watkins Glen along State Route 14 northward up to Chase Road; the Dundee Fire Department covers properties north of Chase Road.

According to the National Center for Education Statistics, which maintains a database of school district demographics, the Project site is located within the boundaries of the Watkins Glen Central School District (U.S. Schools, 2011). This school district encompasses the Town of Reading, and includes three schools (elementary, middle, and high school).

## **1.3 SPECIAL LAND USE DESIGNATIONS**

The Federal Emergency Management Agency (FEMA) Community Status Book for New York indicates that there are no special flood hazard areas in the Town of Reading (FEMA, 2010). The entire community is Zone C,



which means there are no 100-year floodplain boundaries mapped for this community. Despite this documentation, a Flood Mitigation Action Plan developed for Schuyler County identifies specific areas of flooding and bank erosion along Seneca Lake (Figure 3) in the area of the proposed intake structure (Schuyler County, 1999).

According to the New York Department of Environmental Conservation (NYSDEC), no geographic areas have been designated as Critical Environmental Areas (CEAs) within Schuyler County (NYSDEC, 2011). Seneca Lake is designated as a municipal potable water supply source for the Town of Hector and the Village of Watkins Glen.

Portions of the Town of Reading, including areas within the Project boundaries are located in Agricultural District #2. The 2008 Schuyler County Agriculture Development and Farmland Protection Plan acknowledges that agricultural land has increased within the county from 1997 to 2007. However, development pressure is acknowledged in “selected areas near Seneca Lake” where land is prime for vineyards and recreation (Schuyler County, 2008). The “selected areas” were not identified by Town or the location on Seneca Lake. The development pressure, however, is noted as a result of second-home construction and the concern is the loss of prime agricultural land, particularly that which is suited for vineyards.



## 2.0 *POTENTIAL FUTURE LAND USE*

Immediately adjacent to the proposed CAES Project, to the northwest, is the proposed Finger Lakes Liquid Petroleum Gas (LPG) Storage Project, for which a Draft Supplemental Environmental Impact Statement (SDEIS) has been submitted to NYSDEC for review. The LPG Storage Project includes the construction of a rail siding and truck loading area, underground storage caverns that will store LPG, and a brine storage pond, as well as an office building and underground pipelines to support the facility. If the Finger Lakes LPG Storage Project is approved and constructed, it will represent a new industrial land use immediately adjacent to the proposed CAES Project site. The scoping session for the SDEIS prepared for the LPG Storage Project did not identify this shift in land use as a substantial environmental concern; therefore, land use was not one of the factors evaluated in the SDEIS (Finger Lakes LPG, 2011). This conversion to industrial land use immediately adjacent to the CAES Project is not anticipated to adversely impact the CAES Project development and potentially implies that a similar conversion to industrial land use for the CAES Project will not be identified as a significant adverse impact.



### 3.0 ZONING AND LAND USE REGULATIONS

The Town of Reading does not have any zoning districts, nor does it implement conventional zoning laws. Instead, proposed land uses are reviewed and permitted on a case-by-case basis governed by criteria established by the Town Planning Board in the Land Use Law for the Town of Reading, NY (Attachment 1). This law was established to ensure that community goals set forth in the Comprehensive Plan for the Town of Reading (Attachment 2) were protected, pursued, and met.

Based on the footprint of the Project to include greater than 15,000 square feet of area, and the proposed Project elements near Seneca Lake, the Land Use Law for the Town of Reading, NY, Chapter 2, Part 3, indicates the issuance of a "Special Permit" would be required from the Planning Board. To obtain the required "Special Permit", the following documents must be submitted to the Town of Reading Planning Board along with an established fee for permit review and processing:

- A Special Permit application form;
- A Special Permit Site Plan, as described in Appendix I of the Land Use Law;
- A narrative report describing how the proposed land use will satisfy the criteria set forth by the Town Planning Board, as well as any other applicable requirements relating to the specific land use proposed; and
- A long-form Environmental Assessment Form or Draft Environmental Impact Statement.

The development of a land parcel in the Town of Reading is not permitted to result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances. Several other restrictions apply, including the prevention of emissions into the air, protection of public health and safety, and protection of the surface and ground water. A portion of the Project boundary is located within the Seneca Lake Protection Area defined in Chapter 4, Part 10 of the Land Use Law. This area is protected based on its value to the community as a recreational and economic resource. The Seneca Lake Protection Area includes all land lying east of Route 14 as well as within 50 feet of all first order streams that drain into Seneca Lake. The documenting the presence of first order streams within the proposed CAES Project boundary will be required during Phase 2 of the Project.



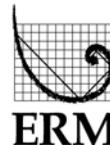
It should be noted that several land uses and activities are prohibited within the Seneca Lake Protection Area. However, most of the prohibited uses are not relevant to the CAES Project. One of the prohibited activities identified, "Storage of hazardous materials, except in sealed or unopened containers for resale or as needed for ordinary household use", may need to be addressed, depending on the final design requirements of the CAES Project pump house and associated facilities adjacent to Seneca Lake.

In addition to the prohibited uses, the following limitations (Section 4 Part 10-3 of the Land Use Law) are defined for activities within the Seneca Lake Protection Area:

- No structure shall be built [or] expanded within 25 feet of Seneca Lake (measured horizontally from the mean high water line) or within the 100-year flood plain as shown on the Flood Insurance Rate Maps (FIRM) of the Federal Emergency Management Agency, except docks, boat houses, and storage buildings not exceeding 300 square feet.
- No excavation or fill shall be permitted within 25 feet of Seneca Lake excepting shore wells (also know[n] as beach wells), seawalls, and permitted docks.
- Residential density shall not under any circumstances exceed one dwelling unit per two acres.
- All uses which would otherwise require Site Plan Only Approval shall instead be subject to Special Permit review.
- Maximum lot coverage by roofed structures or other impervious surfaces shall be 20%.
- Within 200 feet of Seneca Lake minimum lot width shall be 100 feet for dwellings which use the lake, or a municipal or off-site system for water supply and 150 feet for dwellings which use a private well and septic system both located on the lot.

Chapter 4 of the Land Use Law identifies supplementary provisions that are to be complied with for all land uses. Applicable provisions include parts identifying General Land Use Performance Standards (4.1), Steep Slope Regulations (4.4), Resource Extraction Conditions (4.6), Rural Siting Principals (4.8), and Storm Water and Erosion Control Guidelines (4.9).

In addition to the Land Use Law requirements, the Schuyler County Flood Mitigation Action Plan states a goal of no new buildings within flood-prone areas (including areas outside of the 100-year floodplain).



#### 4.0

### *LAND USE COMPATIBILITY AND POTENTIAL IMPACTS*

Development of the Project will directly affect current land uses within the Project boundary and may indirectly affect land uses of adjacent and proximate properties. As noted on Figure 1, the two-mile radius of the Project boundaries is confined to the Town of Reading to the north, west, and south of the Project, and crosses over Seneca Lake and into the Town of Hector to the east.

The recreational and commercial land uses associated with Seneca Lake may be impacted if an adverse visual impact from Seneca Lake or any other sensitive receptors were to result from the Project. This visual impact assessment is discussed in a separate section of this Phase 1 preliminary impact assessment.

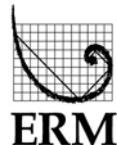
In general, the local and regional land use laws and plans share a similar goal of protecting viable farmland as a cornerstone of the local economy and to maintain the rural character of the region. The Project would be compatible within the Town of Reading if all provisions established in the Land Use Law are met. The Project's proximity to a proposed industrial land use (Finger Lake LPG storage), an existing industrial land use (salt mining), and a commercial land use (truck repair facility) would likely be considered more compatible than locating the Project in a more residential or strictly agricultural area within the Town of Reading. The project will result in the conversion of small areas of former agricultural fields and forest to industrial land uses for the 1) CAES facility, 2) aboveground power lines extending west from the facility, and 3) a portion of the underground pipeline route extending southeast from the facility. Given the fact that land use conversion for the LPG Storage Project was not identified by NYSDEC as an impact warranting evaluation in their SDEIS may be interpreted that it was not considered a significant adverse environmental impact. Thus with the similarities of the two projects, i.e., the LPG storage facility and the CAES Project in terms of size and location, it is possible that a similar "no impact to land use" determination would be made for the CAES Project.

The portion of the Project within the Seneca Lake Protection Area includes the pump house and associated overhead power lines, the CAES plant water supply intake structure, and underground pipelines extending west from Seneca Lake. To be compatible (as defined by the Town of Reading Land Use Law) within this area, no hazardous materials are permitted to



be stored and no structures are permitted within 25 feet of the mean high water line; therefore, design, construction, and operation of the pump house would be required to comply with these conditions.

Construction of the water supply intake structure and discharge pipe within Seneca Lake conflicts with a strict interpretation of Section 4 Part 10-3 of the Land Use Law given the proposed structure's location within 25 feet of the mean high water line. There is a potential that this prohibition could be limited to aboveground structures and would not apply to underground pipelines used for the intake of water from and discharge of wastewater to Seneca Lake. As noted above, this provision would apply to the proposed pump house along the shore. Additional information on the final infrastructure design will be needed prior to initiating a discussion with the Town of Reading. If underground pipelines are considered 'structures' and are subject to this prohibition, additional investigation regarding the potential for a variance from this requirement is required. If the intake structure and associated intake and discharge pipelines were installed as part of or in conjunction with Energy/US Salt's planned new cavern solution mining infrastructure, potential allowable "grandfather" rules may apply due to the existing water intake infrastructure on Seneca Lake. This matter will need to be researched further during Phase 2 once more design information is available.



## 5.0

### REFERENCES

Environmental Resources Management, 2011a. Personal communication with Mark Specchio, Superintendent of Utilities at the DPW for Watkins Glen. Subject: water and sewer services in the Town of Reading, NY. September 26.

Environmental Resources Management, 2011b. Personal communication with Joy Fuller, Dundee Fire Department and Bill Kennedy, Watkins Glen County Coordinator's Office. Subject: fire services in the Town of Reading, NY. September 26.

Federal Emergency Management Agency, 2010. Community Status Book Report, New York. Communities Participating in the National Flood Program. Accessed online 23 September 2011:  
<http://www.fema.gov/cis/NY.pdf>.

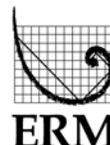
Finger Lakes LPG Storage, LLC, 2011. Draft Supplemental Environmental Impact Statement. LPG Storage Facility. Date accepted for public review: August 2011.

New York Department of Environmental Conservation (NYSDEC), 2011. Environmental Impact Assessment in New York State, Critical Environmental Areas. Accessed online 22 September 2011:  
<http://www.dec.ny.gov/permits/6184.html>.

Schuyler County, 1999. Flood Mitigation Action Plan, Schuyler County, New York. October. Southern Tier Central Regional Planning and Development Board, 145 Village Square, Painted Post, NY 14870.

Schuyler County, 2004. Schuyler County Comprehensive Plan. Comprehensive Plan Subcommittee. Schuyler County Planning Commission.

Schuyler County, 1999. Schuyler County Agricultural Development and Farmland Protection Plan. Schuyler County Agricultural and Farmland Protection Board. Shepstone Management Company and Cornell Cooperative Extension of Schuyler County.



Schuyler County, 2008. Schuyler County Agricultural Development and Farmland Protection Plan 2008 Supplemental Revision. Schuyler County Agricultural and Farmland Protection Board. Shepstone Management Company and Cornell Cooperative Extension of Schuyler County.

Town of Reading, Undated. Comprehensive Plan of the Town of Reading New York. Prepared by Joel S. Russell, Woodlea Associates, Salt Point, New York. Access online 22 September 2011:

[https://2995944274571788296-a-schuylerplans-org-sites.googlegroups.com/a/schuylerplans.org/schuyler-county/town-of-reading/compplanread.pdf?attachauth=ANoY7cpb8mBbC-6EP6YlnCfzSGdfIDKn9QufpgidrKyRcNpBEr4lfp2w2ot1fOZDUgJJAdKElCfvDxvRJYQL-wjX5a8qAJoru0bazC3E7Yr-A2Z4IL8x3dVpn-oLQ0PzjVUNONJuxkxYmg2OGMZgVPZLJR9D7dJLdYZ5YFZBQH1Bwv74yrtHfra6yWg0VZKt1t27TJPJEwDn-BgZh-XGfDxKRcoSlgkLFmL\\_j1BNjZYPLxDKSbyMAnk%3D&attredirects=1](https://2995944274571788296-a-schuylerplans-org-sites.googlegroups.com/a/schuylerplans.org/schuyler-county/town-of-reading/compplanread.pdf?attachauth=ANoY7cpb8mBbC-6EP6YlnCfzSGdfIDKn9QufpgidrKyRcNpBEr4lfp2w2ot1fOZDUgJJAdKElCfvDxvRJYQL-wjX5a8qAJoru0bazC3E7Yr-A2Z4IL8x3dVpn-oLQ0PzjVUNONJuxkxYmg2OGMZgVPZLJR9D7dJLdYZ5YFZBQH1Bwv74yrtHfra6yWg0VZKt1t27TJPJEwDn-BgZh-XGfDxKRcoSlgkLFmL_j1BNjZYPLxDKSbyMAnk%3D&attredirects=1)

Town of Reading, 1995. Local Law No. 1 for the year 1995. Local Land Use Law for the Town of Reading New York.

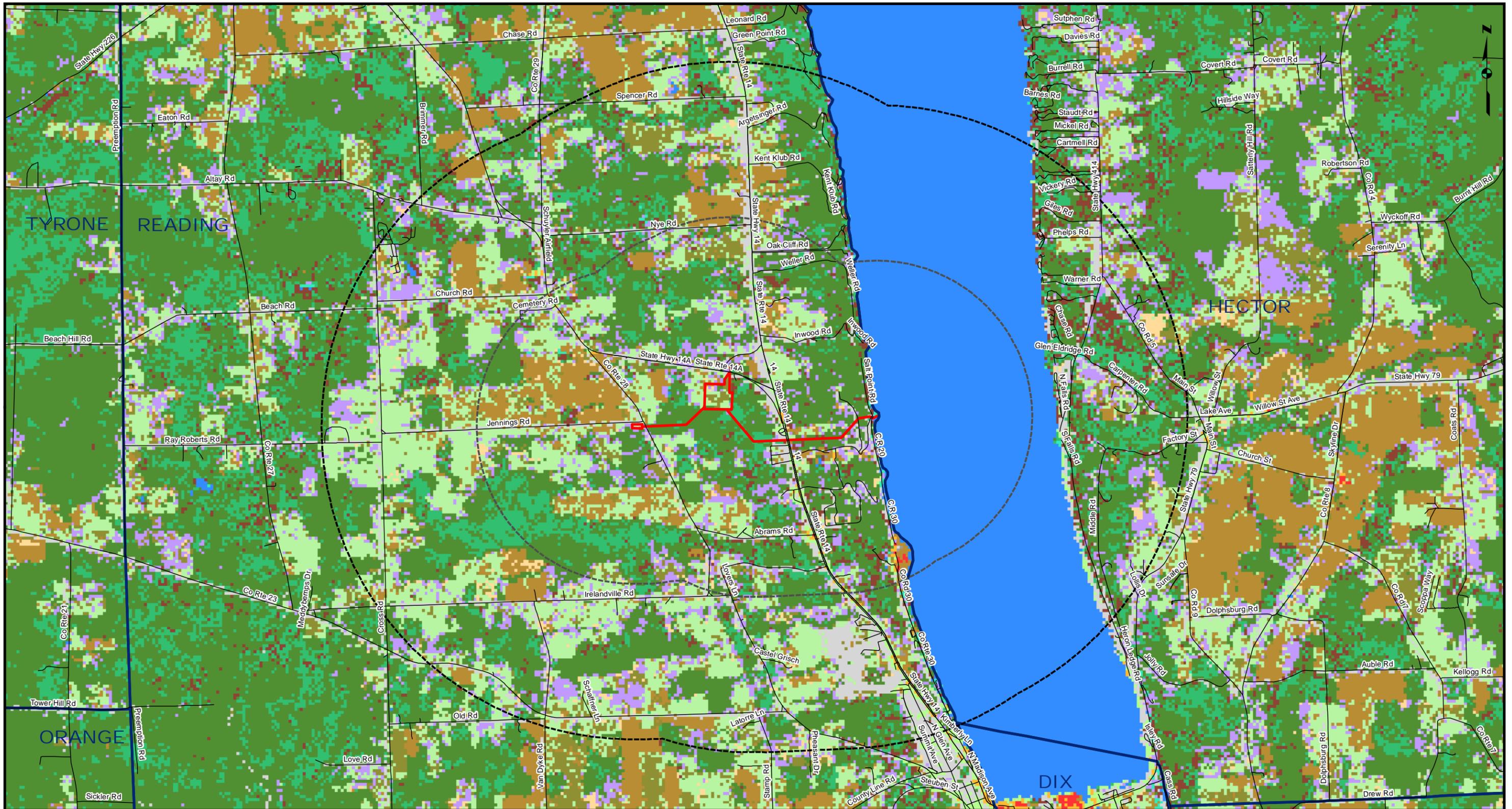
Town of Reading, 2008. Town of Reading home page, last updated 2008. Accessed online 23 September 2011:

<http://home.htva.net/~townofreading/index.htm>

United States Department of Agriculture (USDA), 2010. National Agricultural Statistics Service - 2010 New York Cropland Data Layer.

United States Schools, 2011. American Communities Project. Brown University. Accessed online 26 September 2011:

<http://www.s4.brown.edu/usschools/query.htm> and  
[http://nces.ed.gov/ccd/schoolsearch/school\\_list.asp?Search=1&DistrictID=3630240](http://nces.ed.gov/ccd/schoolsearch/school_list.asp?Search=1&DistrictID=3630240).

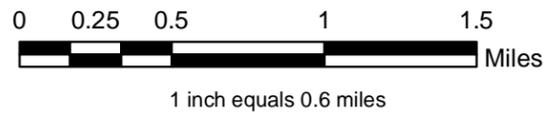


**Legend**

- Approximate Site Location
- 1 Mile Buffer of Project Area
- 2 Mile Buffer of Project Area
- Municipal Boundaries
- 2010 TIGER / Line - Roads

**USDA 2010 Cropland Data Layer**

<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #f4a460; border: 1px solid black; margin-right: 5px;"></span> Cultivated Crops (various)</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #808080; border: 1px solid black; margin-right: 5px;"></span> Barren</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #4682b4; border: 1px solid black; margin-right: 5px;"></span> Deciduous Forest</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #ff0000; border: 1px solid black; margin-right: 5px;"></span> Developed/High Intensity</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90ee90; border: 1px solid black; margin-right: 5px;"></span> Developed/Low Intensity</li> </ul>	<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #ffcc99; border: 1px solid black; margin-right: 5px;"></span> Developed/Medium Intensity</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #d3d3d3; border: 1px solid black; margin-right: 5px;"></span> Developed/Open Space</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #228b22; border: 1px solid black; margin-right: 5px;"></span> Evergreen Forest</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #ffcc00; border: 1px solid black; margin-right: 5px;"></span> Fallow/Idle Cropland</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #00ced1; border: 1px solid black; margin-right: 5px;"></span> Herbaceous Wetlands</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #32cd32; border: 1px solid black; margin-right: 5px;"></span> Mixed Forest</li> </ul>	<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #0000ff; border: 1px solid black; margin-right: 5px;"></span> Open Water</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #808000; border: 1px solid black; margin-right: 5px;"></span> Pasture/Grass</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #800080; border: 1px solid black; margin-right: 5px;"></span> Shrubland</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #8b4513; border: 1px solid black; margin-right: 5px;"></span> Woody Wetlands</li> </ul>
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SOURCE: United States Department of Agriculture (USDA)  
National Agricultural Statistics Service - 2010 New York Cropland Data Layer  
Roads - 2010 Census TIGER Line

**Figure 1: Land Cover**  
NYSEG  
Seneca Compressed Air Energy  
Storage Project (CAES)  
Town of Reading  
Schuyler County, NY



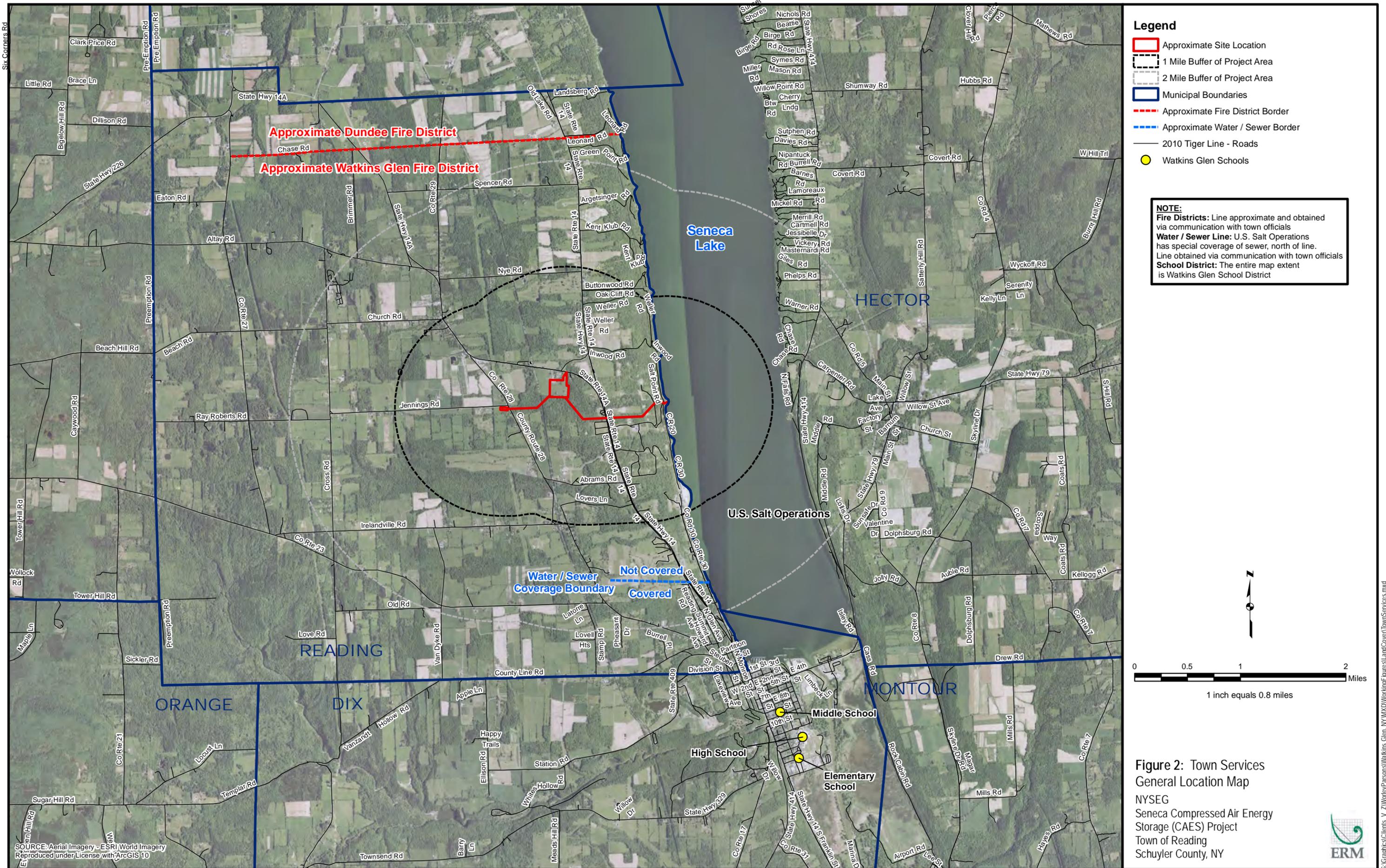
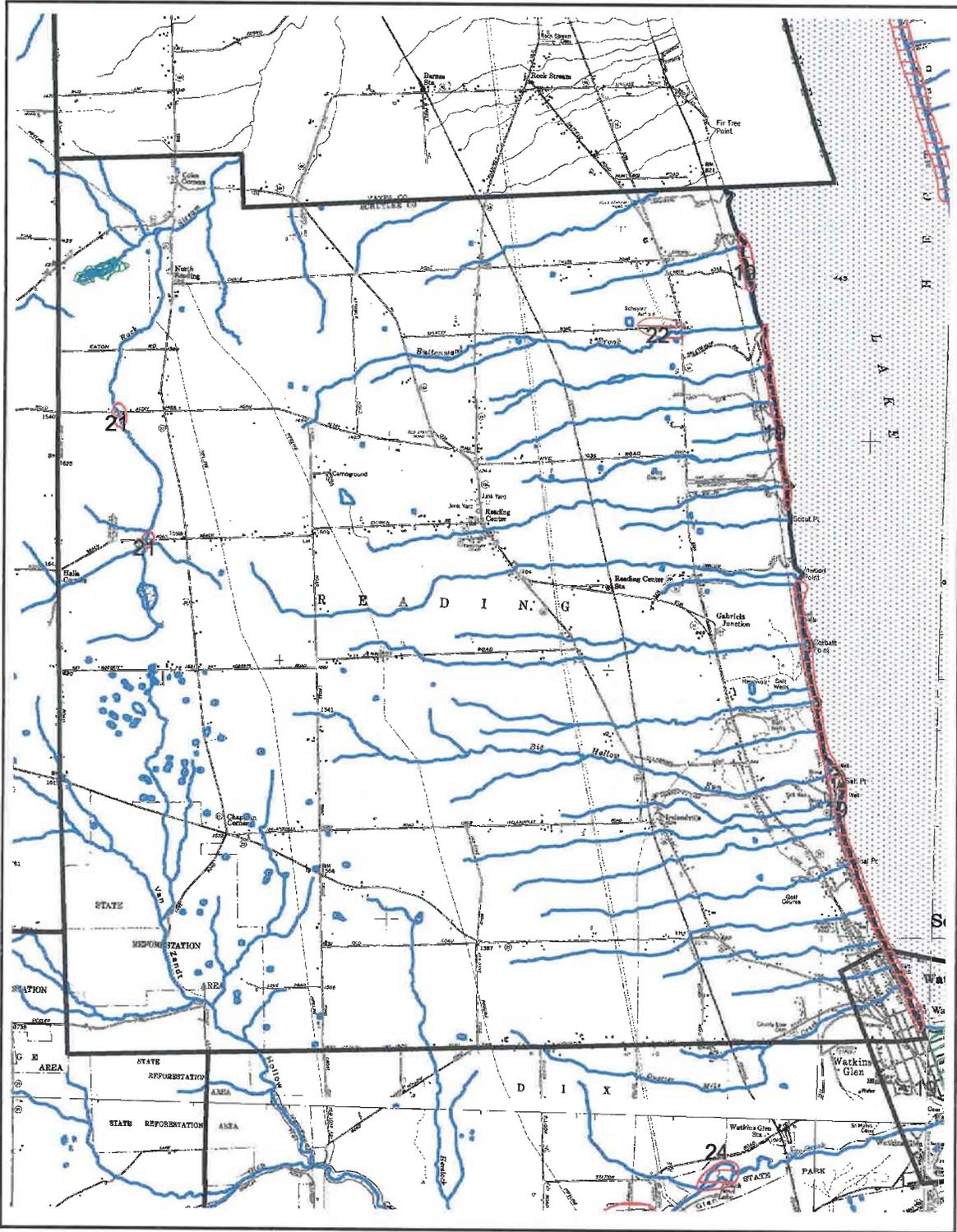


Figure 3

# Town of Reading Flood Hazards and Problems



**Flood Problem Areas**

- Flooding and Bank Erosion
- Drainage Problems
- Wetlands
- Streams
- Rivers and Lakes
- Municipal Boundaries
- Floodplains
- 100 Year Floodplain

2 0 2 Miles

Flood Problems are described in "Flood Mitigation Action Plan, Schuyler County" (available at county and municipal offices).

Note:  
Floodplains and Wetlands data are approximate. Not for legal floodplain or wetland determination.



Source:  
Flood Mitigation Planning Committee.  
New York State 7.5 Minute Quadrangle Images, NYS Department of Environmental Conservation, May 1992.  
New York State Department of Transportation, February 1993.  
Flood Insurance Rate Map, July 7, 1978 and September 15, 1984.

Prepared by Genesee/Finger Lakes Regional Planning Council, October 1998

*Attachment 1*  
*Land Use Law for the Town of Reading, NY*

(Use this form to file a local law with the Secretary of State.)

Town of Reading

Local Law No. 1 of the year 1995

A local law establishing and regulating Land Uses in the Town of Reading, Schuyler County, NY.

Be it enacted by the Town Board of the

Town of Reading as follows:

LAND USE LAW FOR THE TOWN OF READING, NEW YORK

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**LAND USE LAW**  
**FOR THE TOWN OF READING, NEW YORK**

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**Chapter 1. INTRODUCTION AND PURPOSE**

- 1.1 The Town of Reading, through a series of public surveys and meetings, culminating in an intensive public planning “charrette” held June 4 through 6, 1993, has determined that it is necessary to regulate certain aspects of land use in order to manage future development. The Town, respectful of the individual rights of its citizens, seeks to minimize any burden such regulations might impose.
- 1.2 The purpose of these regulations is to maintain not only the rural appearance and physical character of the Town, but also its rural way of life and social environment. This rural tradition is one in which landowners are free to use their property in any manner that does not harm their neighbors or the Town or region as a whole. The people of Reading desire to allow their town to evolve organically, based upon the changing needs and circumstances they face, rather than upon a predetermined plan of development.
- 1.3 The people of Reading recognize that almost any “use” of land can be made compatible with any other use and can be integrated into its surroundings if the size, scale, design, siting, and operation of the use are appropriate. The Town wishes to encourage the growth of small-scale businesses that provide employment without adversely impacting environmental and community resources. The Town is concerned more with integrating development into the landscape than with comprehensively designating specific future uses of land.
- 1.4 In the charrette and at subsequent meetings, Town residents have expressed the following as goals for the future of the Town:
  - 1.4-1 Strengthen the sense of community and improve communication within the Town.
  - 1.4-2 Where possible, keep agriculture economically healthy.
  - 1.4-3 Preserve open space.
  - 1.4-4 Allow flexibility of uses without harming neighbors.
  - 1.4-5 Encourage non-polluting small business and industry growth that provides year-round employment.
  - 1.4-6 Maintain an economically diverse community with affordable housing
  - 1.4-7 Revitalize selected old buildings and hamlets with businesses and housing.
  - 1.4-8 Discourage large-scale development that changes the Town’s character.

- 1.4-9 Protect Seneca Lake water quality and other important environmental resources.
  - 1.4-10 Balance the property rights of individuals with community interests, maintaining rural traditions of freedom of land use.
  - 1.4-11 Increase citizen involvement in local government.
  - 1.4-12 Keep the Town rural, with moderate growth.
  - 1.4-13 Establish a flexible system to regulate development.
  - 1.4-14 Provide better public access to Seneca Lake.
  - 1.4-15 Improve the appearance of the Town.
- 1.5 The goals in Section 1.4 are intended to guide the application of the specific regulations contained in this document in a flexible manner.
- 1.6 The Town has considered and rejected the idea of adopting a conventional zoning law to implement a physical plan of development. The Town finds that a zoning law based on use districts creates expectations of development and a static vision of the future that are not appropriate for a rural community. Zoning arbitrarily limits flexibility of land use without protecting a town's most important resources and character. The citizens of Reading see their community as dynamic, and they desire to create a system that effectively manages changes as it occurs.
- 1.7 The purpose of this land use law is to provide a flexible framework for decision making that enables different land uses to coexist productively within the community. Unlike zoning, which seeks uniformity and separation of land use by districts, this land use law fosters and embraces integration and diversity. The economic and soil vitality that results from the harmonious mixing of different activities and uses is as the core of the quality of life the Town seeks to preserve.
- 1.8 This land use law therefore establishes a case-by-case site plan and special permit decisions process to regulate land use changes. This decisions process is governed by criteria applied by the Planning Board to specific applications for any construction or land uses regulated by this land use law, enabling an applicant, surrounding landowner, and other interested citizens to work together cooperatively to resolve potential conflicts. The Planning Board's function is to oversee this cooperative process, resolve conflicts when parties are unable to do so, and assure that the criteria established in this land use law are satisfied.
- 1.9 This land use local law is enacted under the powers granted to towns under Article 2 of the Municipal Home Rule Law (MHRL). This land law is not intended to be a zoning law as provided for in Sections 261 through 269 of the Town Law of New York State, although some of its provisions may govern matters similar to those covered by zoning. To the extent that any provisions in this land use law may be inconsistent with Sections 261 through 269

of the Town Law, it is the intent of the Town to supersede such provisions of the Town Law under the supersession provisions of Article 2 of the MHRL.

- 1.10 Because this land use is not a zoning ordinance, has built-in flexibility, and does not restrict land use in a manner likely to cause unnecessary hardship or practical difficulties, it contains no provision for a separate Board of Appeals. Under the standards and purposes of this land use law, the Planning Board is empowered and shall be required to grant relief wherever necessary to avoid any unconstitutional intrusion upon the property rights of landowners. (See Section 8.3 for appeal procedure.)

## Chapter 2. APPLICABILITY

**This land use law is not intended to affect most single-family or small-scale business uses (as defined below).** Rather, it requires Planning Board review of those uses, activities and construction listed in Section 2.2 and 2.3, which could have harmful impacts on neighbors or the Town. In addition to the requirements of this land use law, all requirements of the Schuyler County Watershed Department, New York State Department of Environmental Conservation, the New York State Uniform Fire Prevention and Building Code as administered through the Town's Building Inspector, and other Town, County, State and Federal laws and regulations must also be satisfied.

### 2.1 Uses Allowed By Right

Because these uses are adequately regulated by existing laws and regulations, their establishment does not require Site Plan review or a Special Permit under this land use law. Land Use Permits are required only for those uses that are not required to obtain Building Permits because they do not involve building. Such uses require only a Building Permit or "Land Use Permit" (unless otherwise noted) from the Building Inspector. Such a permit must be issued if the proposed use or structure is in compliance with applicable federal, state, county and local laws (see Section 8.1).

2.1-1 One-family and two-family dwellings at a density no greater than one dwelling unit per two acres of land without municipal water and sewer services, or two dwelling units per acre with municipal water and sewer services. **However, dwellings may still be built on existing lots that do not satisfy these requirements with approval of the Schuyler County Watershed Department.**

2.1-2 Agriculture and forestry (no Land Use Permit required).

2.1-3 Business or institutional uses (as defined in Chapter 10) occupying less than 2,000 square feet of enclosed floor space in a structure and occupying or using less than 5,000 square feet of land area (except as provided in Subsection 2.3-1 below).

2.1-4 Multi-family dwelling units in buildings that were in existence on the effective date of this law.

2.1-5 Single mobile homes meeting current state and federal standard for mobile home construction, when placed on individual lots meeting the same lot size requirements as conventional single family residences (Para 2.1-1).

2.1-6 Activities that are duly licensed under the Town of Reading's "Ordinance Licensing and Regulating Dealers in Second Hand Junk and Auto Parts Activities and Businesses" (no Land Use Permit required).

### 2.2 Uses Allowed BY "Site Plan Only" Approval

The following activities and construction, when conducted outside the Seneca Lake Protection Area described in Section 4.10 are permitted by right, subject to review of a

Site Plan to assure that they are appropriately planned. (See Chapter 5 for Site Plan Only review requirements and procedures.)

- 2.2-1 Construction or enlargement of any structure for business or institutional purposes, containing 2,000 to 6,000 square feet of enclosed floor space. This shall include enlargement of an existing structure so that it exceeds the 2,000 square foot threshold. Any business or institutional use that handles refuse or hazardous substances is subject to Special Permit requirements (see Section 2.3 below).
- 2.2-2 The use or occupancy of 5,000 to 15,000 square feet of land, whether or not within structures, for any business or institutional use. For purposes of this Chapter 2, "occupancy of land" shall refer to land that is being actively used or is being cleared, graded, or otherwise altered for site preparation, operations, parking, or other business or institutional purposes, and shall not refer to portions of a parcel left in a natural or undeveloped condition.
- 2.2-3 Multi-family dwelling in new buildings, up to a total of 5 dwelling units per project, at an overall density no greater than one unit per acre.
- 2.2-4 Mobile home parks with no more than 5 units, or older individual mobile homes that do not meet current state or federal standards, at an overall density no greater than one unit per acre.
- 2.2-5 The subdivision of land into lots that do not comply with Section 2.1-1 above, unless the Town adopts subdivision regulations, in which case this provisions shall not apply.

### **2.3 Special Permit Uses**

The following uses and activities, because of their potential for disruption to neighbors, the environment, or others in the community and region are permitted only upon the granting of a Special Permit. Any use or combination of uses covered by both Sections 2.2 and 2.3 shall require a Special Permit. (See Chapter 6 for Special Permit requirements and Procedures.)

- 2.3-1 Solid Waste Management Facilities, as defined in NYCRR Part 360, Subparts 360-2 through 360-14, shall require a Land Use Permit. They shall be reviewed under 6 NYCRR Part 617 (State Environmental Quality Review) and shall be screened with opaque fences, mature evergreen buffers, earthen berms, or other barriers or enclosures which will render the material and activities in the facilities invisible from public roads and adjacent properties. All Solid Waste manage Facilities require a special permit, which permit shall stipulate that the facilities shall be open for inspection at any time by the person or person designated by the Town to monitor the facilities.
- 2.3-2 Construction or enlargement of any structure for business or institutional purposes containing over 6,000 square feet of enclosed floor space. This shall include enlargement of an existing structure so that it exceeds the 6,000 square foot threshold.

- 2.3-3 The use or occupancy of more than 15,000 square feet of land, whether or not within structures, for any business or institutional use.
- 2.3-4 Construction of more than 5 units of multi-family housing, or less than 10 units at a density greater than one unit per acre.
- 2.3-5 Mobile home parks with more than 5 units, or mobile home park with less than 5 units at a density greater than one dwelling unit per acre.
- 2.3-6 Any construction or activity listed in Section 2.2 that occurs within the Seneca Lake Protection Area (see Section 4.10).

**2.4 Subdivisions**

All subdivisions of land shall be governed by the Town of Reading Land Subdivision Regulations, if and when they are adopted.

## Chapter 3: DIMENSIONAL STANDARDS

### 3.1 By-right Dimensional Standards

*(Note: These standards may all be varied by the Planning Board pursuant to Section 3.2.)*  
The Town wishes to provide for separation between adjoining buildings and uses to avoid disturbance and encroachment, and to protect public health and safety. In seeking to balance individual property rights with the need for individual privacy, it has established the following flexible dimensional standards. For protection from road noise, fumes, and dust, there shall be a minimum setback of 20 feet from the right-of-way of the road. For privacy, the minimum width of the lot at the front side lot lines shall be 15 feet, and from rear lot lines, 25 feet. The minimum width of the lot at the front of the principal building shall be 80 feet. To assure road access, the minimum road frontage shall be 20 feet. In order to protect groundwater in the surrounding area, the minimum lot size with on-site well and septic systems shall be 2 acres. ***(Note: Schuyler County has regulations that cover minimum lot size, but they are designed primarily to assure that septic systems will work on each lot; they do not protect against the cumulative impact on groundwater and surface water of building many units in the same area.)***

### 3.2 Modification of Dimensional Standards

- 3.2-1 Any applicant for a Site Plan Only approval, Special Permit, or Subdivision approval may request a modification of the Section 3.1 dimensional standards. Such a modification shall be approved if it satisfies applicable review criteria in Chapters 5 or 6 of this land use law or the Land Subdivision Regulations, as appropriate.
- 3.2-2 Any application for a Building Permit or Land Use Permit for a use that is allowed by right may file a Site Plan Only review application requesting a modification of the Section 3.1 dimensional standards. Such a modification shall be approved if it satisfies applicable review criteria in Chapter 5.
- 3.2-3 The entire Town of Reading outside the limits of the incorporated Village of Watkins Glen is hereby declared to be an "open development area" pursuant to Section 280-a(4) of the Town Law of New York State. **Lots may therefore be created which do not have road frontage**, providing that they are served by common driveways or private roads that satisfy the requirements of this land use law and the Subdivision Regulations, and that legally sufficient right-of-way and maintenance agreements are recorded.

## Chapter 4: SUPPLEMENTARY PROVISIONS

### 4.1 General Land Use Performance Standards

The following performance standards shall apply to all land uses **other than the customary practice of agriculture**:

- 4.1-1 No nuisances such as vibration, glare, or odor shall be noticeable at or beyond the property line.

- 4.1-2 No activity shall create a safety or health hazard, by reason of fire, explosion, radiation, or similar causes, to persons or property.
- 4.1-3 There shall be no discharge of liquid or solid waste, or of any other materials, in a manner that may contaminate surface water or ground water.
- 4.1-4 There shall be no storage of any materials either indoors or outdoors that may endanger public health and safety or the natural environment.
- 4.1-5 There shall be no emissions into the ambient air such as smoke, dust, gases, or other material in a manner that may damage the health of persons, animals, or plants, or that damages property.
- 4.1-6 No permanent structure containing toilet facilities, including but not limited to a dwelling, mobile home, travel trailer, boat, business or institutional use, or agricultural structure, shall be occupied unless it is connected to an approved sanitary waste system. This shall not apply to structures with self-contained chemical or composting toilet facilities.

#### **4.2 Minimum Lot Sizes and Buildable Land Area on a Lot**

Notwithstanding any other provisions of this land use law, any lot on which a habitable building is constructed must contain a minimum area of buildable land. Such buildable land must be contiguous, with a minimum dimension of 50 feet on all sides, and must be accessible by emergency vehicles from a public or private road. The minimum buildable area for lots containing on-site septic disposal systems or wells shall be 15,00 square feet; for lots connected to off-site septic or sewage disposal and water systems, the minimum shall be 2,500 square feet. Areas covered by the setbacks specified in Chapter 3 may be included in the buildable area of a lot.

#### **4.3 Junkyards and Outdoor Storage**

- 4.3-1 Junkyards shall comply with and be subject to applicable licensing requirements of the Town of Reading's "Ordinance Licensing and Regulating Dealers in Second Hand Junk and Auto Parts Activities and Businesses.
- 4.3-2 Junk and junk cars shall be set back at least fifty feet from the right-of-way of a public road and shall be screened from view from the road and adjoining property. The junkyard shall have a roofed work area on a impervious pad with a collection system for automotive fluids and other hazardous substances. Junk cars stored for more than one week shall have all fluids drained and batteries removed. No portion of the junkyard shall be closer than 100 feet to a first order stream or lake.
- 4.3-3 Where practical, trees and shrubs shall be planted, or natural woodlands shall be encouraged to grow, in order to screen the following from view from public roads: junkyards, outdoor storage areas for construction or other heavy equipment or vehicles, and the storage or collection of junk or junk cars.

#### **4.4 Steep Slope Regulations**

The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding fifteen percent (15%).

- 4.4-1 No approval of a Subdivision, Site Plan, or Special Permit that involved the disturbance of slopes greater than fifteen percent (15%) shall be granted unless conditions are attached to ensure that:
- a. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction (see Section 4.9).
  - b. Cutting of trees, shrubs, and other vegetation will be minimized except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
  - c. Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.
  - d. Proper engineering review of plans and construction activities will be conducted by the Town, at the applicant's expense, to ensure compliance with this Section.
  - e. No Certificate of Occupancy will be granted until all erosion control and drainage measures required pursuant to this Section have been satisfactorily completed.
- 4.4-2 No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of thirty percent (30%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
- 4.4-3 Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as the Planning Board shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, an engineer retained by the Town, at the applicant's expense, shall determine the location of regulated slopes. For purposes of establishing steep slope area, only contiguous sloped areas owned by the applicant containing at least 5,000 square feet of slopes over 15% or 30% shall be considered.

#### **4.5 Protection of Agriculture from Potentially Incompatible Uses**

- 4.5-1 Required Disclosure
- In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration." This disclosure shall be required as a note on a Subdivision Plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting or letter of notification. This Subsection 4.5-3 may also be applied to any business or institutional development within the jurisdiction of the Planning Board which abuts agricultural land, at the discretion of the Planning Board.

#### 4.5-2 Agricultural Buffers

Wherever agricultural uses and other new uses unrelated to the agricultural operations abut, buffers, if desired shall be provided by the proponent of the non-agricultural use to reduce the exposure of the non-agricultural uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision and maintenance of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.

#### 4.5-3 Agricultural Data Statement

*[Note: This section will only apply if Reading adopts county agricultural districts as recommended in the Comprehensive Plan.]* Any application for a Special Permit, Site Plan approval, or Subdivision approval for a project that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Chapter 10. The Planning Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.

### 4.6 Resource Extraction

4.6-1 An applicant for a Special Permit for resource extraction shall submit to the Planning Board copies of all applications and other materials submitted to the New York State Department of Environmental Conservation (DEC) in connection with its resource extraction application.

4.6-2 In considering whether to grant or deny a resource extraction Special Permit, the Planning Board shall consider all relevant criteria contained in Section 5.2.

4.6-3 In issuing a Special Permit for resource extraction, the Planning Board shall impose conditions designed to protect the public health, safety, and welfare. Such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions.

- a. Ingress from egress to public thoroughfares controlled by the Town;
- b. Routing of mineral transport vehicles on roads controlled by the Town;
- c. Requirements and conditions specified in the permit issues by the DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control, and hours of operation.
- d. Enforcement of reclamation requirements contained in any DEC permit.

4.6-4 In issuing a Special Permit for resource extraction uses not subject to regulation by DEC, the Planning Board may require additional conditions as it deems necessary.

### 4.7 Signs

Installation of signs shall require a Land Use Permit from the Building Inspector unless exempted by Section 4.7-1 or 4.7-4. Where a sign is erected in conjunction with a project that is subject to Site Plan or Special Permit review, the proposed sign shall be reviewed by the Planning Board as part of the approval process, and shall not require a separate Land Use Permit.

- 4.7-1 Non-illuminated signs less than 16 square feet per side shall not require a Land Use Permit. However, no more than two such signs per building shall be permitted without a Land Use Permit.
- 4.7-2 Commercial signs 16 square feet per side or larger shall require a Land Use Permit in accordance with the following standards.
  - a. Attached signs shall not project more than three (3) feet from the main wall of a building or into a public way.
  - b. Free-standing signs shall not interfere with visibility of pedestrians or vehicles and shall be compatible in design with the business and area.
  - c. No Sign may be larger than one hundred (100) square feet per side.
  - d. Signs shall not interfere with street and traffic lighting nor cause off-premises glare.
  - e. Permanent banners, streamers, flashing lights, and similar devices shall not be permitted on commercial signs.
  - f. No sign shall extend above the height of the associated business establishment or twenty-four (24) feet, whichever is less.
- 4.7-3 Community directory signs larger than twenty-four (24) square feet may be allowed by Site Plan Approval.
- 4.7-4 Non-commercial signs shall be permitted in any locations without a Land use Permit, subject to the restrictions in Section 4.7-2.

#### 4.8 Rural Siting Principles

The following guidelines shall apply to the siting of residences in new subdivisions and to business and institutional uses that are subject to Site Plan or Special Permit approval. **They do not apply to the siting of individual residences on existing lots.** The Planning Board may adopt an illustrated siting guide or refer applicants to a published design manual to provide further guidance on complying with these principles.

- 4.8-1 Wherever feasible, retain and reuse existing old farm roads and country lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
- 4.8-2 Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as

setback requirements do not result in constructing buildings in the middle of fields.

- 4.8-3 Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however
- 4.8-4 Unless buildings are designed traditionally and located close to the road in the manner historically found in the Town, use existing vegetation and topography to buffer and screen them if possible. Group buildings in clusters rather than spreading them out across the landscape in a “sprawl” pattern.
- 4.8-5 Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
- 4.8-6 Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
- 4.8-7 Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g. walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking area.

#### **4.9 Storm Water and Erosion Control**

The Stormwater and Erosion Control Guidelines of the New York State Department of Environmental Conservation shall apply to the following activities:

- 4.9-1 Excavation within 50 feet of a first order stream.
- 4.9-2 Excavation, grading, or construction on slopes over 8% or in any area in excess of 20,000 square feet.
- 4.9-3 Any project subject to Site Plan Only, Subdivision, or Special Permit approval.
- 4.9-4 Agriculture, unless conducted pursuant to an approved current US Department of Agriculture Natural Resources Conservation Service Conservation Plan.

#### **4.10 Seneca Lake Protection Area**

The Town of Reading finds that Seneca Lake is a recreational and economic resource of great value to the community and desires special protection of this valuable asset.

#### 4.10-1 Applicability

This Section 4.10 shall apply to all land lying east of New York State Route 14 as well as within 50 feet of the banks of first order streams that drain into Seneca Lake:

#### 4.10-2 Prohibited Uses

The following uses, when conducted at a scale larger than that of an ordinary household, shall be prohibited in the Seneca Lake Protection Area. Existing activities that engage in these activities may continue and expand, provided that they comply with all applicable federal, state, and county laws and regulations and do not increase their non-compliance with this section. Existing activities that are in full compliance with a valid State Pollution Discharge Elimination System (SPDES) Permit shall be exempt from Section 4.10.

- a. Disposal of hazardous materials or solid waste including operation of a landfill.
- b. Treatment of hazardous materials, except rehabilitation programs authorized by a government agency for treating hazardous materials that existed on the site prior to the adoption of this land use law.
- c. Storage of hazardous materials, except in sealed or unopened containers for resale or as needed for ordinary household use.
- d. Production of hazardous materials.
- e. Dry-cleaning and dyeing establishments and laundries that use cleaning solvents.
- f. Printing and photo processing establishments.
- g. Furniture and finish stripping establishments.
- h. Disposal of septic sludge.
- i. Uses which discharge hazardous materials into groundwater or surface water.
- j. Automotive service stations.
- k. Junkyards.

#### 4.10-3 Regulations

- a. No structure shall be built or expanded within 25 feet of Seneca Lake (measured horizontally from the mean high water line) or within the 100-year flood plain as shown on Flood Insurance Rate Maps (FIRM) of the Federal Emergency Management Agency, except docks, boat houses, and storage buildings not exceeding 300 square feet.
- b. No boat house or storage building shall be used for residential purposes.
- c. No excavation or fill shall be permitted within 25 feet of Seneca Lake excepting shore wells (also known as beach wells), seawalls and permitted docks.
- d. Residential density shall not under any circumstances exceed one dwelling unit per two acres.
- e. All uses which would otherwise require Site Plan Only approval shall instead be subject to Special Permit review.
- f. Maximum lot coverage by roofed structures or other impervious surfaces shall be 20%.
- g. Within 200 feet of Seneca Lake minimum lot width shall be 100 feet for dwellings which use the lake, or a municipal or off-site system for water supply and 150 feet for dwellings which use a private well and septic system both located on the lot.

## **Chapter 5: "SITE PLAN ONLY" REVIEW**

The Town has established in Chapter 2 a three-tiered system of reviewing land use and development. Most small-scale uses require only a Land Use Permit or Building Permit, issued by the Building Inspector. Larger-scale projects outside of the Seneca Lake Protection Area (listed in Section 2.2) require Planning Board review of a site plan only, to assure that such projects will be compatible with their surroundings. Very large projects and those located in the Seneca Lake Protection Area must follow the Special Permit requirements in Chapter 6.

### **5.1 Contents of a "Site Plan Only" Application**

An applicant for a Site Plan Only approval shall submit:

- 5.1-1 A Site Plan Only application form.
- 5.1-2 A site plan drawn to scale with accurate dimensions providing information sufficient to enable the Planning Board to make an informed decisions; an agricultural data statement as defined in Chapter 10, if required by Section 4.5-3; and a vicinity map of appropriate scale showing adjacent lots and annotated with the names of adjacent lot owners. The Planning Board may require the submission of some of the information listed in Appendix I, Section I.1, as appropriate to the specific application.
- 5.1-3 A brief narrative describing the proposed use.
- 5.1-4 A short-form Environmental Assessment Form (EAF) (unless the Planning Board determines that the proposed Site Plan approval is a Type I action under the State Environmental Quality Review Act (SEQRA), in which case a long-form EAF shall be required).
- 5.1-5 The Site Plan only application fee as established by the Town Board, and an escrow deposit if required to cover reasonable professional review costs.

### **5.2 Procedure**

#### **5.2-1 Application**

- a. Application for a Site Plan Only approval shall be made to the Planning Board, on forms prescribed by the Planning Board.
- b. If an application is for a parcel or parcels on which more than one use requiring Site Plan Only approval is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of determining whether the application require Site Plan Only or Special Permit approval (and for SEQRA compliance), all proposed uses on a single parcel or related uses on nearby or contiguous parcels shall be considered together.

#### **5.2-2 Informal Meeting**

Before filing an application, an informal meeting with the Planning Board is recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

#### 5.2-3 Mediation

At any point in a project review process the Planning Board may, if it deems appropriate and the applicant consents, appoint a mediator to work informally with the applicant, neighboring property owners, and other interested parties to address concerns raised about the proposed use. Any party may request mediation. Such mediation may be conducted by a member of another municipal board, by the Planning Board's consultant, or any other qualified and impartial person acceptable to the parties and the Planning Board. The mediator shall have no power to impose a settlement or bind the parties or the Planning Board, and any settlement reached shall require Planning Board approval to assure compliance with all provisions of this land use law. The cost of such mediation will be charged to the applicant as part of the cost of project review. Such cost may also be shared by other interested parties with their written consent.

#### 5.2-4 SEQRA Compliance

Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within twenty (20) days. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this land use law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYCRR Section 617.8(b)(1) or the issuance of a negative declaration. The Planning Board may prepare the DEIS at the applicant's expense, with the applicant's consent.

#### 5.2-5 Referral to County Planning Commission

- a. Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Schuylar County Planning Commission any application for Site Plan approval affecting real property within five hundred (500) feet of the boundary of the Town of Reading, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway; the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or Institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-I and 239-m, as amended.
- b. No action shall be taken on applications referred to the County Planning Commission until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the thirty (30)-day requirement for the County Planning Commission's review.

- c. County Disapproval. A majority plus one (1) vote of the Planning Board shall be required to grant any Site Plan approval which receives a recommendation of disapproval from the County Planning Commission because of the referral process specified about, along with a resolution setting forth the reasons for such contrary action.

#### 5.2-6 Notice and Hearing

- a. The Planning Board shall hold a public hearing on a complete Site Plan Only application within 62 days not counting Saturdays, Sundays and Holidays. At least seven (7) calendar days prior to the date thereof, the applicant shall notify all of the following of the hearing by registered mail, return receipt requested and shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper.
  - 1. Owners of all real property as shown on the current tax map, located within 200 feet in all directions of the property, which is the subject of the hearing.
  - 2. The clerks of all adjoining municipalities whose boundaries are located within 200 feet of the property, which is the subject of the hearing.
  - 3. The County planning board where the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land or situated within 500 feet of a municipal boundary.
  - 4. The State Commissions of Transportation where the hearing concerns an application for development of property adjacent to a state highway.
- b. The cost of mailing the notices shall be borne by the applicant.

#### 5.2-7 Action

- a. The Planning Board by a majority vote of the full Board, shall grant, deny, or grant subject to conditions the application for a Site Plan Only approval within sixty-two (62) days after the hearing. Any decisions shall contain written findings explaining the rationale for the decision in light of the standards contained in this land use law.
- b. A copy of the decision shall be immediately filed in the Town Clerk's office and mailed to the applicant. A resolution of either approval with modifications shall include authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.
- c. If the Planning Board's resolution includes a requirement that modifications be incorporated in the Site Plan, conformance with these modifications shall be considered a condition of approval. If the Site Plan is disapproved, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after it has been revised or redesigned.
- d. Within six (6) months after receiving Site Plan approval, with or without modifications, the applicant shall submit four (4) copies of the Site Plan to the Planning Board for stamping and signing. The Site Plan submitted for stamping shall conform strictly to the Site Plan approved by the Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:
  - 1. Record of application for and approval status of all necessary permits from Federal, State, and County officials.
  - 2. Detailed sizing and final material specification of all required improvements.

3. An estimated project construction schedule. If a performance guaranty pursuant to Subsection 5.2-8 is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.
4. Proof of payment of the Planning Board's reasonable review costs.
- e. Upon stamping and signing the Site Plan, the Planning Board shall forward a copy of the approved Site Plan to the Building Inspector and the applicant. The Building Inspector may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

#### 5.2-8 Performance guaranty

No Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed, or a sufficient performance guaranty has been posted for improvements not yet completed. Such performance guaranty shall be posted in accordance with the procedures specified in Section 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Town Attorney, the Building Inspector, other local officials, or its designated consultants.

#### 5.2-9 Inspection of Improvements

The Building Inspector shall be responsible for the inspection of site improvements, including coordination with the Town's consultants and other local officials and agencies, as may be appropriate.

#### 5.2-10 Expiration, Change of Use, Revocation, and Enforcement

- a. A Site Plan approval shall expire if the approved use or uses cease for more than twenty-four (24) consecutive months for any reason, if the applicant fails to obtain the necessary Building Permit or Land Use Permit or fails to comply with the conditions of the Site Plan approval within eighteen (18) months of its issuance, or if its time limit expires without renewal.
- b. A Site Plan approval shall apply to the use for which it has been granted, as well as to any subsequent use of the property which complies with all terms and conditions of the Site Plan approval (as determined by the Building Inspector in issuing a Building or Land Use Permit) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Site Plan approval shall require the granting of a new Site Plan approval or a Site Plan amendment.
- c. A Site Plan approval may be revoked by the Planning Board if the permittee violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.
- d. Any violation of the conditions of a Site Plan approval shall be deemed a violation of this land use law, and shall be subject to enforcement action as provided herein.

#### 5.2-11 Amendments

The terms and conditions of any Site Plan Only approval may be amended in the same manner as required for the issuance of a Site Plan Only approval, following the criteria and procedures in this Chapter. Any enlargement, alteration, or

construction of accessory structures not previously approved shall require a Site Plan amendment.

#### 5.2-12 Reservation of Parkland

For any Site Plan containing residential units, the Planning Board may require the reservation of parkland pursuant to Town Law, Section 274-a(6).

### 5.3 Findings Required

In order to grant a Site Plan Only approval, the Planning Board must find that the proposal:

- 5.3-1 Will not cause undue traffic congestion, unduly impair pedestrian or vehicular safety, or overload existing roads, considering their current width, surfacing, and condition, and will have appropriate parking and be accessible to fire, police, and other emergency vehicles. Road access points will have sufficient sight distances to assure visibility of vehicles.
- 5.3-2 Will not overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem, including Seneca Lake or its tributaries.
- 5.3-3 Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
- 5.3-4 Will not result in excessive noise, dust, odors, liquid or solid waste, or glare, or create any other nuisances, and will satisfy the General Land Use Performance Standards in Section 4.1.
- 5.3-5 Will comply with the Rural Siting Guidelines in Section 4.8, if applicable.

## **Chapter 6: SPECIAL PERMITS**

In recognition that large-scale uses and certain other uses located within the Seneca Lake Protection Area tend to have the greatest impacts on the Town and its environment, such uses shall be allowed only upon the granting of a Special Permit as described below.

### **6.1 Required Plans**

An applicant for a Special Permit shall submit:

- 6.1-1 A special Permit application form.
- 6.1-2 A Special Permit Site Plan, as described in Appendix I, Review of Special Permit Site Plans, and an agricultural data statement as defined in Chapter 10, if required by Section 4.5-2 of this land use law.
- 6.1-3 A narrative report describing how the proposed use will satisfy the criteria set forth in the findings requirements of Section 6.3, as well as any other applicable requirements relating to the specific use proposed.
- 6.1-4 A long-form Environmental Assessment Form or Draft Environmental Impact Statement.
- 6.1-5 The Special Permit application fee, as established by the Town Board, and any required escrow deposit for review costs, as required by the Planning Board.

### **6.2 Procedure**

The procedures contained in Section 5.2 for Site Plan Only approval shall be followed for Special Permit applications.

### **6.3 Findings Required**

In granting or denying Special Permits, the Planning Board shall take into consideration the scale of the proposed project, the possible impact of the proposed project on the functioning of nearby farm operations, the constitutional rights of the applicant to an economically viable use of property, and the rural tradition of freedom of land use where such use does not harm others. The Planning Board shall also take into account any proposed conservation easements, architectural restrictions, or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic and historic character of the Town. Before granting a Special Permit, the Planning Board shall make specific written findings that the proposed use:

- 6.3-1 Will comply with all provisions and requirements of this and other local laws and regulations, and will fulfill the purposes of this land use law as stated in Chapter 1.
- 6.3-2 Will not result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and will satisfy the General Land Use Performance Standards in Section 4.1.
- 6.3-3 Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if

appropriate, its ability to be buffered or screened from neighboring properties and public roads.

- 6.3-4 Will not cause undue traffic congestions, unduly impair pedestrian or vehicular safety, or overload existing roads, considering their current width, surfacing, and condition, and will have appropriate parking and be accessible to fire, police, and other emergency vehicles. Road access points will have sufficient sight distances to assure visibility of vehicles.
- 6.3-5 Will not overland any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem, including Seneca Lake or its tributaries.
- 6.3-6 Will be subject to such conditions on design and layout of structures, provision of buffer areas, and operation of the use as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town. Where water and sewer services are available, the Planning Board may require development to be clustered in the pattern of a traditional village or hamlet with visually or environmentally important open space preserved by a deed restriction or conservation easement. Where water and sewer utilities are not available, the Planning Board shall encourage such a pattern to the extent feasible.
- 6.3-7 Will be consistent with the goals of concentrating retail uses in hamlets, and incorporated villages, avoiding strip commercial development and residential sprawl development, and locating non-residential uses, that are incompatible with residential use in well-buffered rural locations.
- 6.3-8 Will comply with the Rural Siting Guidelines in Section 4.8, if applicable, and with the Site Plan criteria in Appendix I, Section I.3

## **Chapter 7: NON\_CONFIRMING USES, STRUCTURES, AND LOTS**

### **7.1 Continuation of Non-conforming uses and Structures**

Any lawful structure of use existing at the time of enactment or amendment of this land use law (pre-existing use or structure) which becomes non-conforming as a result of such enactment or amendment may be continued.

## **7.2 Discontinuance**

A non-conforming use of land or structures which is discontinued for a period of twenty-four (24) consecutive months shall not be re-established without compliance with applicable provisions of this land use law, and any subsequent use of the same property shall conform to the requirements of this land use law.

## **7.3 Special Permit and Site Plan Only Uses**

7.3-1 Any pre-existing use or structure which can be allowed by Special Permit under this land use law, but which has not been issued a Special Permit, shall be permitted to continue as a non-conforming use until such time as it is granted a Special Permit. Upon the granting of such a Special Permit, the use shall become conforming and shall be governed by the conditions attached to the Special Permit. If such a Special Permit is denied, the use may continue as a non-conforming use, subject to the requirements of this Chapter 7.

7.3-2 Any pre-existing use or structure which requires a "Site Plan Only" approval under this land use law shall be deemed a conforming use, and may be expanded by a total cumulative amount of 25% of the enclosed floor space and/or occupied outdoor area, without requiring Site Plan Only approval.

## **7.4 Expansions, Alteration, and Restoration**

7.4-1 A non-conforming use or structure may be expanded or enlarged by a maximum of 25% of its floor area or occupied outdoor area. The extensions of a lawful use to any portion of a non-conforming structure shall not be deemed the extensions of a non-conforming structure or use.

7.4-2 A non-conforming structure or use may be rebuilt by right in the event of total or partial destruction thereof, to occupy no more space than permitted in Subsection 7.4-1.

7.4-3 A non-conforming use or structure may be repaired or restored as necessary to a safe condition.

## **7.5 Construction Started Prior To This Land Use Law**

Any non-conforming structure for which construction was begun prior to the effective date of this land use law, or of any amendment thereto, may be completed and used in accordance with the approved plans and specifications for such structure. Any non-conforming structure for which construction has not begun, pursuant to approved plans shall be subject to the provisions of this land use law and any amendments thereto, even if all approvals previously required have been granted.

## **7.6 Existing Non-conforming Lots**

- 7.6-1 Any lot of record created prior to the enactment of this law which does not comply with the area, density, or dimensional requirements of this land use law shall be deemed to comply with such requirements, provided that:
- a. The lot contains at least 5,000 square feet.
  - b. There is no contiguous lot in the same ownership to which the non-conforming lot may be joined.
  - c. The dimensional requirements in Section 3.1 are satisfied.
  - d. Any residential use of a non-conforming lot shall be limited to one single-family dwelling.

7.6-2 A non-conforming lot may be subdivided only if every portion of such lot will be transferred to owners of adjoining properties to increase the size of such owner's properties, thereby eliminating the non-conforming lot.

## **Chapter 8: ADMINISTRATION AND ENFORCEMENT**

### **8.1 Requirement of Building Permit, Land Use Permit, and Certificate of Occupancy**

In order to assure compliance with this land use law, it is necessary for the Town to be aware of proposed development activities. Most such activities already require a Building

Permit under the New York State Uniform Fire Prevent and Building Code (“Building Code”), administered by the Building Inspector.

8.1-1 This Law shall be enforced by the Land Use Officer (LUO) who shall be appointed by the Town Board. No Building Permit or Certificate of Occupancy shall be issued by the LUO unless all provisions of this law have been complied with. The LUO shall also serve as the Town Building Inspector. References to the “Building Inspector” in this local law shall be deemed to refer to the “Land Use Officer” as well.

8.1-2 Building Permit Types

Under the terms of this law the following classes of Building Permits may be issued by the LUO:

- a. Permitted Use. A building permit for a “by right” use as defined in section 2.1 may be issued by the LUO of his own authority.
- b. Site Plan Only. A Building and Land Use Permit for a Site Plan Only laude use may be issued by the LUO after review and approval by the Planning Board following procedures defined in Chapter 5 of this law.
- c. Special Permit. A Building and/or Land Use Permit for projects requiring Special Permits may be issued by the LUO after review and approval by the Planning Board following procedures defined in Chapter 6 of this law.
- d. Permits After Appeal. Building and/or Land Use Permits may be issued by the LUO upon the order of the Board of Appeals and after a public hearing held by the Board of Appeals for the purpose of deciding up the Appeal.

8.1-3 Except as provided in Subsection 8.1-5, no buildings or structures, including accessory buildings and signs, shall be erected, moved, enlarged, or extended, nor shall any new commercial use of land be initiated or excavation of land be begun unless and until a Building Permit or Land Use Permit has been issued by the Building Inspector.

8.1-4 Commercial activities that are not covered by the Building Code require a town “Land Use Permit,” which shall be granted if the proposed use complies with this land use law. Land Use Permits shall be required only in situations where a Building Permit is not required or has not yet been issued, including erection of free-standing signs, land disturbance (including excavation, grading and site clearing) of more than 2,000 square feet of land, or business or institutional uses not involving buildings.

8.1-5 No Land use Permit shall be required for agriculture or forestry activities, or for activities duly licensed under the Town of Reading’s “Ordinance Licensing and Regulating Dealers in Second Hand Junk and Auto Parts Activities and Businesses”

8.1-6 No structure or expansion of an existing structure shall be occupied or used until the Building Inspector issues a Certificate of Occupancy certifying compliance of such structure with the terms of its Building Permit, this land use law, and with all other applicable laws and regulations.

## 8.2 Violations

### 8.2-1 Penalties

A violation of this land use law is an offense punishable by a fine not to exceed three hundred-fifty dollars (\$350.00), or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense. Conviction of a second offense, committed with five (5) years of the first offense, is punishable by a fine not less than three hundred-fifty dollars (\$350.00) nor more than seven hundred dollars

(\$700.00) or imprisonment for a period not to exceed six (6) months, or both. Conviction of a third or subsequent offense committed within a period of five (5) years is punishable by a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate violation.

**8.2-2 Complaints of Violations**

Whenever a suspected violation of this land use law occurs, any person may file a signed written complaint reporting such violation to the Land Use Officer. All such complaints must be in writing (unless the suspected violation threatens life, health, or safety, in which case the Land Use Officer is authorized to act on an oral complaint) and shall be submitted to the Land Use Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

**8.2-3 Abatement of Violations**

Whenever a suspected violation of this land use law occurs, the Town Board or, with its approval, the Land Use Officer, may institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate such violation, to prevent the occupancy of the premises, or to prevent any illegal act, conduct, business, or use in or about the premises. The Land Use Officer shall also be empowered to issue a "stop work order" upon determining that a violation of this local law has occurred or is in progress.

**8.2-4 Taxpayer Action**

Upon the failure or refusal of the Land Use Officer or Town Board to institute an appropriate legal action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town to do so, any three (3) taxpayers of the Town residing in the district in which such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in the same manner as the Land Use Officer or Town Board.

**8.2-5 Accountability**

For every violation of the provisions of this land use law, the owner, agent, contractor, lessee, ground lessee, tenant, licensee, or any other person who commits, takes part, or assists in such violation or who maintains any structures or premises in which any such violation exists, shall be punishable according to the provisions of this land use law.

**8.3 Appeal of Action By Land Use Officer**

Any person aggrieved by an order, determination, interpretation, or other action taken by the Land Use Officer may appeal such action to the Planning Board following the procedural steps contained in Section 5.2. In hearing such appeal, the Planning Board shall have the powers of a board of appeals as provided in Section 267-b of the Town Law of New York State.

**Chapter 9: MISCELLANEOUS PROVISIONS**

**9.1 Interpretation as Minimum Requirements**

In their interpretation and application, the provisions of this land use law shall be deemed minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this land use law differ from the

requirements of any other lawfully adopted laws, regulations, or ordinances, the most restrictive, or that imposing the higher standard, shall govern.

**9.2 Severability**

If any provision of this land use law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this land use law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

**9.3 Conflict with Other Laws**

This land use law shall not repeal, abrogate, annul, or in any way impair or interfere with any provisions of law or rules of regulations previously adopted or issued and still in effect relating to the use of structures or premises, provided that where this land use law imposes a greater restriction upon the use of structures or premises or requires larger lots or yards that are imposed or required by such existing laws, rules, or regulations, the provisions of this land use law shall control.

**9.4 Appeal of Planning Board Action**

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

**9.5 Effective Date**

This land use law shall take effect upon filing in the office of the Secretary of State.

**Chapter 10: DEFINITIONS**

Except where specifically defined herein, all words used in this ordinance shall carry their customary meaning as defined in generally accepted dictionaries. Words used in the present

tense include the future and the plural includes the singular: the word "structure" includes the word "building", the word "shall" is intended to be mandatory: "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

**Accessory Use and Structure.** A use of or structure on a lot or portion of a lot customarily incidental and subordinate to the lot or structure and not changing the character of the principal use of the structure or lot.

**Agricultural Data Statement.** An identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which a Subdivision is proposed, as provided in Section 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed Subdivision and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the Subdivision is proposed' and a tax map or other map showing the site of the proposed Subdivision relative to the location of farm operations identified in the agricultural data statement.

**Agriculture.** The management of land for agriculture and crops; raising of cows, horses, pigs, poultry, and other livestock, and horticulture of orchards; including the construction, alteration, or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds, barn, stable, shed, soil, garage, fruit and vegetable stand, or other building or structure directly and customarily associated with agricultural use and production.

**Buildable Land.** That portion of a lot which is suitable for building structures and locating septic disposal facilities, excluding wetlands and watercourses, slopes exceeding fifteen percent (15%), and flood hazard areas as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

**Business or Institutional Use.** A non-agricultural involving the sale or rental of goods, services, or commodities, either on a retail or whole basis, or the provision of services or entertainment, whether or not for profit, including without limitation stores, campgrounds, tourist attractions, motels, clinics, offices, restaurants, resorts, service and gas stations, and industry. As defined in this land use law, business or institutional use shall generally refer to any non-residential, non-agricultural use of land for commercial, educational, charitable, religious, or scientific purposes.

**Distances.** Distances shall mean the shortest horizontal linear distance from the nearest point of a regulated activity to the mean high watermark of the nearest watercourse or the edge, margin or top of a precipitous bank adjoining forming the mean high water mark of a watercourse. Additionally distances shall mean the shortest footage between two or more objects.

**Dwelling Unit.** One or more rooms constituting a separate independent housekeeping unit establishment with cooking, living, sanitary, and sleeping facilities for the use of no more than one family.

**Farm Operation.** Land used in agricultural production, farm buildings, equipment, and farm residential buildings.

**First Order Stream.** A first order stream is a stream which is mapped as a continuous blue line on the US Geological Survey Reading Center Quadrangle Map, 1950 edition revised 1978, 1:24,000 scale.

**Flood Plain** shall mean those areas designated by either the New York State Department of Environmental Conservation or the United States Federal Emergency Management Agency as likely to flood within one hundred years.

**Forestry.** The management, including logging, of a forest, woodland, or plantation, and related research and educational activities, including construction, alteration, or maintenance of woodroads, skidways, landings, fences, forest drainage systems, barn, shed, garage, temporary sawmill sites, research, and educational or administrative building or cabin directly and customarily associated with forestry use.

**Industry.** The manufacture and production or assembly of goods or materials.

**Institutional Use.** See Business or Institutional Use.

**Junk.** Any worn-out, cast-off, discarded, or neglected article or material which is ready for destruction or has been collected or store for salvage or conversion to another use.

**Junkyard.** The use of two hundred (200) square feet or more of area on any lot outside a structure for the storage or collection of junk or junk cars.

**Lot or Parcel.** An area or plot of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established either by the filing of a Subdivisions Plat or by the recording of a deed.

**Marina.** Any facility for the docking or stage of boats which contains more than three docks, slips, or lifts.

**Mobile Home.** A self-contained dwelling unit that is designed to be transported in one or more sections on its own wheels or those of another vehicle, that may contain the same water supply, sewage disposal, and electrical system as immobile housing, and that is used for either permanent or seasonal occupancy. A dwelling unit that is constructed in sections and transported and assembled on the side with a solid foundation is not considered a Mobile Home.

**Mobile Home Park.** Parcel of land under single ownership which is designed and improved for the placement of two or more Mobile Homes upon units thereof.

**Multi-Family Dwelling.** A residential building containing three (3) or more dwelling units.

**Non-conforming Lot.** A lot of record which does not comply with the dimensional requirements of this land use law (see Chapter 7).

**Non-conforming Structure.** A structure which contains a permitted use, but which does not meet the dimensional requirements of this land use law, and which was lawful when constructed (see Chapter 7).

**Non-conforming Use.** Any use lawfully existing prior to and at the time of the adoption of amendment of this land use law or any preceding local law or ordinance, which is not permitted by right or does not conform with the provisions of this land use law. A pre-existing lawful use which is allowed only by Special Permit under this land use law shall be considered a non-conforming use until such time as a Special Permit is granted for it (See Chapter 7.)

**Occupied Outdoor Area.** That portion of a lot used for driveways, parking lots and outdoor storage.

**Resource Extraction.** Use of more than 15,000 square feet of land for the purpose of quarrying, extracting, and selling stone, minerals, oil, gas, sand, and/or gravel, not including the process of preparing land for construction of a structure for which a Building Permit has been issued.

**Setback.** The distance in feet from a property line or a street centerline to a structure on a lot.

**Sign.** Any billboard, signboard, inscription, pennant, insignia, or other structure or device composed of lettered or pictorial material that is placed for outdoor display (including inside a window), used as advertisement, announcement, or direction.

**Sign, Commercial.** A sign advertising a product, use, service, or activity sold or conducted for private financial gain.

**Single-Family Dwelling.** A detached building containing one dwelling unit, not including a Mobile Home.

**Solid Waste Management Facilities.** Solid Waste Management Facilities are all those uses specified in 6 NYCRR 360, Subparts 360-2 through 360-14.

**Subdivisions.** Any division of land into two or more lots, parcels, or sites, whether adjoining or not, for the purpose of sale, lease, license, or any form of separate ownership or occupancy.

**Subdivisions Regulations.** The Town of Reading Land Subdivisions Regulations.

**Town Law.** The Town Law of the State of New York.

**Wetland.** Any land which is subject to periodic or continual inundation by water or which contains hydric soils as defined by the Natural Resources Conservation Service of the U.S. Department of Agriculture.

## APPENDIX I

### REVIEW OF SPECIAL PERMIT SITE PLANS

The Planning Board shall review Site Plans for all Special Permit applications in order to determine the probable impact of the proposed use on the surrounding area and to impose appropriate conditions on the siting, location, and design of the proposed use. The submission requirements for Special Permit Site Plans are more elaborate than those for Site Plan Only review because of the greater potential impact of Special Permit uses. Some of the information listed below may also be required by the Planning Board for Site Plan Only review where such information is necessary to conduct an informed review.

#### I.1 Required Information

A Special Permit Site Plan shall include plans and descriptive information sufficient to clearly portray the intentions of the applicant. Site Plans shall be prepared by a registered professional engineer, architect, or landscape architect, and shall include the following:

- a. Name of the project, boundaries, date, north arrow, and scale of the Site Plan.
- b. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.
- c. A vicinity map drawn at the scale of two thousand (2,000) feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within five hundred (500) feet of the property. Such a sketch may be superimposed on a United States Geological Survey map of the area.
- d. A Site Plan drawn at a scale of forty feet to the inch (1" = 40') or such other scale as the Planning Board may deem appropriate, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
- e. The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.
- f. The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
- g. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- h. The location, heights, size, materials, and design of all proposed signs.
- i. The location of all present and proposed utility systems including:
  1. Sewage or septic system;
  2. Water supply system;
  3. Telephone, cable, and electrical systems; and
  4. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

- j. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- k. Existing and proposed topography at two (2) foot contour intervals, or such other contour interval as the Planning Board shall specify. All elevations shall refer to the nearest United States Costal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown, and base flood elevations given. Areas shall be indicated within the proposed site and within fifty (50) feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.
- l. A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight (8) or more inches in diameter four feet above the ground, forest cover, and water resources, and all proposed changes to these features including sizes and types of plants. Water resources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and stormwater retention areas.
- m. Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas, which shall include:
  - 1. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - 2. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  - 3. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
- n. For new construction or alterations to any structure, a table containing the following information shall be included:
  - 1. Estimated area of structure to be used for particular uses such as retail operation, office, storage, etc;
  - 2. Estimated maximum number of employees;
  - 3. Maximum seating capacity, where applicable; and
  - 4. Number of parking spaces existing and required for the intended use.
- o. Elevations at a scale of one-square inch equals one foot (  $\frac{1}{4}'' = 1'$ ) for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color or materials to be used.
- p. For large or environmentally intrusive developments, the Planning Board may require soil logs, test well and percolation test results, and storm runoff calculations.
- q. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

## 1.2 Waivers

In the case of Special Permit uses that are likely to have a minimal impact on the surrounding area, the Planning Board may waive information requirements in Section I.1 above, as it deems appropriate.

## 1.3 Criteria

The Planning Board, in reviewing Special Permit Site Plans, shall consider the criteria set forth below. The Planning Board may adopt or recommend illustrated design guidelines to assist applicants in complying with this Section I.3.

a. Layout and Design

1. All structures in the plan shall be integrated with each other and with adjacent structures, and shall have convenient pedestrian and vehicular access to and from adjacent properties.
2. Individual structures shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement, and shall harmonize with traditional elements in the architectural fabric of the area.
3. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
4. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.

b. Landscaping

1. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surround areas, as appropriate.
2. Primary landscape treatment shall consist of native plant communities, including shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern.
3. Where appropriate, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
4. If deemed appropriate for the site by the Planning Board, shade trees at least six (6) feet shall be planted and maintained at twenty (20) to forty (40) foot intervals along roads, at a setback distance acceptable to the Highway Superintendent.

c. Parking, Circulation, and Loading

1. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
2. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public street to connect adjoining properties shall be required by the Planning Board, where appropriate.
3. Off-street parking and loading requirements of this land use law shall be fulfilled.
4. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
5. All buildings shall be accessible by emergency vehicles.

d. Miscellaneous Standards

1. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
2. The light level at the lot line shall not exceed two-tenths (0.2) footcandle, measure at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin business or institutional uses, light standards shall be restricted to a maximum of twenty (20) feet in height.
3. Drainage of this site shall recharge ground water to the extent practical, and surface water flowing off-site shall not adversely affect drainage on adjacent properties or public roads.
4. Additional Site Plan requirements and standards for review set forth in other Sections of this land use law shall be fulfilled.
5. Requirements for proper disposal of construction and demolition waste shall be fulfilled, and any necessary permits or agreements for off-site disposal shall be provided to the Planning Board.

*Attachment 2*  
*Comprehensive Plan for the Town of Reading*

**COMPREHENSIVE PLAN OF THE**

**TOWN OF READING, NEW YORK**

*prepared by:*  
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# TOWN OF READING COMPREHENSIVE PLAN

## INTRODUCTION

This plan is based on the results of a mail survey of registered voters in the town, conducted in 1991, a 3 day public workshop (Charrette) held in June 1993, and a number of public meetings held from time to time over the past several years. All of these activities were conducted by the town to attract maximum public participation from all segments of the community. This comprehensive plan summarizes the goals agreed upon by most Reading residents and outlines preliminary community plans.

## INTRODUCTORY OBSERVATIONS

The Town of Reading is a diverse community which includes a wide range of different land uses. Most of its population lies within the eastern and southeastern parts of the town, near Seneca Lake and the Village of Watkins Glen. The portion of the Town which is inside the Village of Watkins Glen is not being actively considered in this planning process, since it is within the planning and zoning jurisdiction of the Village.

Reading's development has been and will continue to be shaped by its infrastructure. Two state highways (14 and 14A) and two active freight railroad lines are located in the eastern portion of the Town. The Watkins Glen water and sewage systems extend a short distance beyond the Village limits into the Town. With excess capacity in the systems, these water and sewer lines represent an important resource for attracting and concentrating new development.

The Village of Watkins Glen is limited by topography and wetlands from expanding in any direction except to the northwest, into Reading. This has and will continue to place development pressure on the southeastern corner of the Town. Reading therefore needs to develop a strategy for incremental extension of water and sewer lines to serve high intensity land uses, while protecting the lakeshore and the rural open space further away.

Reading may also need water and sewer infrastructure in the hamlets of Reading Center and Irelandville, but this will be more difficult to provide because of their distance from Watkins Glen. Reading Center, which needs infrastructure more, is also much further away. This makes it unlikely that an extension of water and sewer services to Reading Center will be economically feasible.

Reading has a well-balanced tax base because of such non-residential properties as the Nobel-Akzo salt plant, the Texas Eastern gas pipeline facilities, the two railroad lines, and several tourist businesses. In addition, Reading has considerable woodland and some farmland, although it appears that much farmland has been growing back to woods.

Geographically, Reading functions in many ways as an extension of Watkins Glen, with many residents served by the Watkins Glen Post Office, and most served by the Watkins Glen school system and fire company. The character of the western part of Reading is more rural and sparsely populated than the eastern half. However, Reading's people expressed a strong desire to become a more cohesive community with a stronger identity.

Southeastern Reading is suitable for large-scale development that could change its character because of the availability of infrastructure and easy access to Watkins Glen. Without any planning regulations, Reading is therefore vulnerable to the impacts of such development. Recognizing this, many residents feel a sense of urgency about planning in order to make development fit into Reading's existing character.

### COMMUNITY GOALS

Residents of the Town of Reading expressed the following as community goals:

1. Strengthen the sense of community and improve communication within the Town.
2. Where possible, keep agriculture economically healthy.
3. Preserve open space.
4. Allow flexibility of uses without harming neighbors.
5. Encourage non-polluting small business and industry growth that provides year-round employment.
6. Maintain an economically diverse community with affordable housing.
7. Revitalize old buildings and hamlets with businesses and housing.
8. Discourage large-scale development that changes the Town's character.
9. Protect Seneca Lake water quality and other important environmental resources.
10. Balance the property rights of individuals with community interests, maintaining rural traditions of freedom of land use.
11. Increase citizen involvement in local government.
12. Keep the Town rural, with moderate growth.
13. Establish a flexible system to regulate development.
14. Provide better access to the lake.
15. Improve the appearance of the Town.

## COMMUNITY PLAN

The challenge of implementing a community plan is to reconcile development and conservation objectives in a way that respects rural traditions. A plan does not need to spell out specific land uses for each portion of a town. Rather, it can establish an appropriate framework for making decisions on land use and development, striking a balance between landowners' property rights and community goals.

The most important elements of a plan for Reading are flexibility and responsiveness to individual and community needs and desires. Based upon the goals and priorities expressed by residents of Reading at the charrette, Reading appears to be ready to begin drafting a set of development regulations tailored to its needs. This report outlines the major points that such a plan and regulations would cover. The Town could choose some combination of these elements, modify them, and/or invent new ones.

1. Allow one-family, two-family, agricultural, and most small-scale business uses "by right" throughout the town. Small-scale businesses can be defined by square footage (for example, under 2,000 square feet of floor space and 5,000 square feet of total coverage of land in active use). Businesses that manufacture, store, use, or dispose of hazardous materials, tires, junk, etc., would not be allowed by right, regardless of their size.
2. Allow new medium-scale businesses (up to three times the size of the small-scale ones mentioned above) by right, subject only to site plan review by the Planning Board. Site plan review would cover issues such as road access, traffic impact, parking, building layout, appropriateness of design, drainage, waste disposal, environmental impact, provision of buffers, minimum distance from nearby residences, and protection of neighbors from harmful effects of the use. Existing medium-scale businesses would be "grandfathered," but their expansion by more than 25% would require site plan approval.
3. Allow new large-scale business uses, as well as those that manufacture, store, use or dispose of hazardous materials, tires, junk, solid waste, etc. only by special permit, which would include site plan review. In determining whether to grant a special permit, the planning board would follow specific criteria relating to the suitability of the use to its proposed location, its impact on the surrounding area, the availability of rail, highway, water, and sewer infrastructure, its proximity to existing industrial uses, its compatibility with the town goals listed above, its impact on town infrastructure and fiscal capacity, and its environmental and social impact. Existing large-scale businesses would be "grandfathered," but expanding them by more than 25% would require a special permit. If legally possible, out-of-town waste would be precluded from being dumped at a facility in the Town of Reading. Conditions necessary to assure fulfillment of developers' infrastructure construction responsibilities would be imposed.
4. Allow multi-family use of existing buildings by right. New buildings for multi-family use (3 or more units) would be allowed with site plan review for up to 5 units. For more than 5 units, a special permit would be required.
5. Allow individual mobile homes meeting state and federal standards for new mobile home construction by right. All others (including two or more homes on a lot or in a subdivision) would require site plan review. Mobile home parks with more than 10 units would require special permits.

6. Establish density guidelines (not minimum lot sizes) limiting the number of residential units allowed by right within a given tract of land to, say, one unit per two acres in areas that lack water and sewer service. This could be varied by special permit, provided that all applicable impact criteria are satisfied. Areas with water and sewer could have considerably higher density, provided that they satisfy special permit performance standards.
7. Establish minimum setbacks from lot lines for by-right uses. These could be varied according to the circumstances in the course of site plan and special permit review.
8. Pass subdivision regulations to allow the planning board to review land subdivisions. Review of subdivisions of less than 5 lots would be expedited as "minor subdivisions." Subdivision regulations would enable the planning board to ensure that subdivided land was suitable for development, that proper roads are constructed, and that such roads are either properly constructed or bonded prior to final approval. Narrow, unpaved country roads would be allowed with a suitable base and drainage, provided that the developer committed to permanent low density. Clustering would be encouraged but not required unless water and sewer service is available.
9. Offer the option of resolving all site plan, special permit, and subdivision controversies through a mediation process involving the applicant and neighbors. The agreed settlement would be submitted to the planning board for approval.
10. Create a lake area "overlay" with more stringent criteria for land lying within 1/2 mile of Seneca Lake or within 100 feet of designated major streams flowing into the lake (see SLPWA recommendations).
11. Adopt storm water and erosion control guidelines for site plan and special permit uses (see SLPWA recommendations).
12. Establish a volunteer community organization to do some or all of the following:
  - ▶ Publish a community newsletter and directory of businesses.
  - ▶ Seek funds for housing and building improvements.
  - ▶ Seek funds for the construction or extension of water and sewer infrastructure.
  - ▶ Investigate possible sites and funding for a lakefront town park.
  - ▶ Plan for tree planting and other civic improvements.
  - ▶ Sponsor a community day social event and organized flea market.
  - ▶ Develop a voluntary community consultation process (or design guidelines) so that new development is consistent with the special character of the Town.
  - ▶ Investigate possibilities for hamlet revitalization, business retention and expansion, and attraction of new businesses.
13. Improve administration of the Uniform Fire Prevention and Building Code (possibly sharing staff with another town) and use the same personnel to administer a land use law. Interpret the Code in a flexible manner to encourage reuse of old buildings.
14. Work with the Farm Bureau and Cornell Cooperative Extension to establish an agricultural district to provide tax relief and right-to-farm protection for farmers.